IN RE: PETITION FOR ZONING VARIANCE E/S Greenspring Avenue, 1800'

* DEPUTY ZONING COMMISSIONER S of the c/1 of Old Court Road 3rd Election District * OF BALTIMORE COUNTY 2nd Councilmanic District

Diversified-Greenspring Avenue * Case No. 89-225-A Limited Partnership -Petitioners

* * * * * * * * * * * * FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit building separations of 25 feet in lieu of the required 30 feet for building heights between 25 and 30 feet for Lots 30, 35, 36, 41, 42, 46, 47, 55, 56, 74, 75, 80, 81, 86, 87, 92, 93, 99, 100, 106, 107, 112, 113, 121, 122, 127, 128, 132, 133, 138, 139, 145, 146, 152, 153, 159, 160, 167, 168, 176, 177, and 184 of "Greenspring East, Section 2" (42 lots), and to permit building separations of 22 feet in lieu of the required 30 feet for building heights between 25 and 30 feet for Lots 62, 63, 68 and 69 of "Greenspring East, Section 2" (4 lots), as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Ellwood A. Sinsky, Vice President, D.I.A. Greenspring Avenue, Inc., a General Partner, and Mark Arisman, Production Manager, Ryland Homes, appeared, testified, and were represented by Robert A. McFarland, Esquire. Also appearing on behalf of the Petition was Sam Shockley with Development Engineering Consultants, Inc. There were no Protestants.

Testimony indicated that the subject property, split zoned D.R. 1, and 3.5, consists of approximately 36.5 acres and is located off of Greenspring Avenue in the vicinity of Sugarcone Road. The property is the

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

March 31, 1989

Robert A. McFarland, Esquire 21 W. Susquehanna Avenue Towson, Maryland 21204

Dennis F. Rasmussen

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RE: PETITION FOR ZONING VARIANCE E/S Greenspring Avenue, 1800' S of the c/l of Old Court Road 3rd Election District - 2nd Councilmanic District Diversified-Greenspring Avenue Ltd. Partnership - Petitioners Case No. 89-225-A

Dear Mr. McFarland:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

Al- MNestereina ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

AMN:bjs

cc: People's Counsel

site of the proposed Greenspring East, Section 2 subdivision which is to be developed into 155 townhomes. Messrs. Sinsky and Arisman testified that due to the architectural modifications of the roof structures of the proposed homes, a higher pitched roof has been developed which will result in building heights of between 25 and 30 feet. Mr. Shockley testified since filing the instant Petition, Petitioners have worked to modify the development so fewer variances are necessitated and to show Petitioners' good faith in its efforts to meet the spirit and intent of the Baltimore County Zoning Regulations (B.C.Z.R.). Testimony indicated as a result of their efforts, variances will now only be necessary for Lots 35, 36, 41, 42, 80, 81, 86, 87, 92, 93, 106, 107, 127, 128, 132, 133, 145, 146, 152, 153, 159 and 160. Testimony indicated in many instances, setbacks provided will be closer to the required 30-foot side yard setbacks. Petitioners indicated the proposed townhomes are from their "Executive Series" and are compatible with the neighborhood and meet present marketing demands. Petitioners argued that the granting of the variance will not result in any detriment to the health, safety or general welfare of the public and in fact will be an economic benefit to this development and adjoining communities. Further, Petitioners argued that a denial of the variance will result in practical hardship.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his propert' McLean v. Soley, 270 Md. 208 (1973). To prove practical an area variance, the Petitioner must meet the following:

> whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

PETITION FOR ZONING VALIANCE TO THE ZONING COMM TONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1801-2-c-1 to permit bldg. separation
Variance from Section of 25 ft. in lieu of the required 30 ft. for building heights
Vertage 25 and 30 ft. for "Greenspring East-Section 2" (Lots #30, 35, 36, 41, 42, 46, 47, 55, 56, 74, 75, 80, 81, 86, 87, 92, 93, 99, 100, 106, 107, 112, 113, 121, 122, 127, 128, 132, 133, 138, 139, 145, 146, 152, 153, 159, 160, 167, 168, 176, 177, 184) (Total=42 Lots); and 1801-2-c-1 to permit bldg. separation of 22 ft. in lieu of the required 30 ft. for building heights between 25 and 30 ft. for "Greenspring East-Section 2 (Lots # 62, 63, 68, 69) (Total=4 Lots). of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for following reasons: (indicate hardship or practical difficulty)

1) Smaller end units would be incompatible with interior townhouses.

2) Height reduction for townhouses would be impractical for builder. Maximum unit height is 29.25 feet.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County,

I/We do sole nly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

.D. 3rd

DATE 5-9-8

| | Within In one parless so |
|--|---|
| Contract Purchaser: THE RYLAND GROUP, INC. BALTIMORE DIVISION (Type or Print Name) | Legal Owner(s): DIVERSIFIED-GREENSPRING AVE. LTD. PARTNE GEN'L PARTNER-D. I.A. GREENSPRING AVE., I (Type or Front Name) U.P |
| Signature MICHAEL M. BRODSKY, V.P. DIVISION MANAGER 1300 YORK RD., SUITE 110 | Signature ELLWOOD SINSKY, V.P. (Type or Print Name) |
| Address LUTHERVILLE, MD 21093 (301) 821-5311 City and State | Signature |
| Attorney for Petitioner: POWER AND MOSNER (Type or Print Name) | 2416 VELVET VALLEY WAY (301) 363-6644 Address Phone No. |

OMINGS WIFFS The STITE Signature THOMAS J. DOLINA City and State Name, address and phone number of legal owner, con-DEVELOPMENT ENG'RG. CONSULTANTS, INC. 6603 YORK ROAD BALTIMORE, MD 21212 (301) 377-2600

14th day of Dec Zoning Commissioner of Baltimore Count .

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 31st day of March, 1989 that the Petition for Zoning Variance to permit building separations of 25 feet in lieu of the required 30 feet for building heights between 25 and 30 feet for Lots 35, , 41, 42, 80, 81, 86, 87, 92, 93, 106, 107, 127, 128, 132, 133, 145, 146, 152, 153, 159, 160 of "Greenspring East, Section 2" (22 lots), and to permit building separations of 22 feet in lieu of the required 30 feet for building heights between 25 and 30 feet for Lots 62, 63, 68 and 69 of Greenspring East, Section 2, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the

30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Petitioners shall not request any other front, rear, and/or side variances for this Development, including, but not limited to, the area marked "For Future Development 5.204 Ac.+."

3) When applying for a building permit, the site plan and lanscaping plan filed must reference this case and set forth and address the restrictions of this Order and provide any additional information which may be requested by the Zoning Commissioner's Office, including, but not limited to, the density calculations permitted and proposed for Greenspring East; and,

IT IS FURTHER ORDERED that the variances to permit building separations of 25 feet in lieu of the required 30 feet for building heights between 25 and 30 feet for Lots 30, 46, 47, 55, 56, 74, 75, 99, 100, 112, 113, 121, 122, 138, 139, 167, 168, 176, 177 and 184, be and are hereby DENIED, as Petitioner's testimony indicated said variances were no longer necessary.

> A MNistenowie Deputy Zoning Commissioner for Baltimore County

Development Engineering Consultants, Un Site Engineers & Surveyors

> DESCRIPTION TO ACCOMPANY ZONING VARIANCE REQUEST

OUTLINE DESCRIPTION OF SECTION 2 GREENSPRING EAST (TOWNHOUSE PORTION ONLY) LOCATED IN THE THIRD ELECTION DISTRICT OF BALTIMORE

Beginning for the same at a point on the Easterly right-ofway line of Greenspring Avenue (80 feet wide); said point being the Southwestern-most corner of Section 2, thence running for the following 18 courses and distances viz:

(1) North 03 degrees 50 minutes 35 seconts West, 59.55 feet; (2) Along a curve to the right having a radius of 7581.97 feet for a length of 608.50 feet; (3) North 00 degrees 45 minutes 19 seconds East, 272.79 feet; (4) South 44 degrees 14 minutes 41 seconds East, 14.14 feet; (5) South 89 degrees 14 minutes 41 seconds East, 289.79 feet; (6) Along a curve to the right having a radius of 575.00 feet for a length of 105.32 feet; (7) South 78 degrees 45 minutes 00 seconds East, 101.75 feet; (8) Along a curve to the left having a radius of 575.00 feet for a length of 130.49 feet; (9) North 03 degrees 21 minutes 36 seconds West, 181.78 feet; (10) North 77 degrees 23 minutes 53 seconds East, 273.88 feet; (11) North 67 degrees 06 minutes 42 seconds East, 117.41 feet; (12) North 68 degrees 16 minutes 48 seconds East, 97.24 feet; (13) South 13 degrees 27 minutes 31 seconds East, 125.00 feet; (14) North 84 degrees 25 minutes 22 seconds East, 480.30 feet; (15) South 48 degrees 33 minutes 45 seconds East, 652.00 feet; (16)

South 41 degrees 38 minutes 00 seconds West, 50.65 feet; (17) South 68 degrees 30 minutes 00 seconds West, 1,841.00 feet; (18) South 88 degrees 25 minutes 27 seconds West, 372.11 feet to the point of beginning.

Containing 36.640 acres of land (gross) more or less. Being the same parcel(s) of land as recorded as "Section 2 Plat(s) 1 and 2 of Greenspring East" in Plat Book S.M. 57, Folios 142 and 143.

87-146 09-13-88

6603 York Road Baltimore, Maryland 21212 (301) 377-2600

- 2 -

*89-225-A CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Toursen, Maryland

| District 3 rd. | Date of Posting Merember 21,1 |
|--|--|
| Posted for: Simulation Directified Cra | dock Estates Ltd. Partnerships |
| Location of property: E/S freenst | ring Arenu, 1800's eft Old Court Con |
| some fact in de al Gr | unsoines arone aport: 2000 South of |
| Old Court Road | cooping brance, gopref. 2000 South of |
| Remarks: | Date of return: Morember 25, 1981 |
| Posted by Signature | Date of return: 1107 convey dos, 120 a |
| Number of Signet | |

CERTIFICATE OF PUBLICATION

and published in Towson, Baltimore County, Md., appearing on Morember 17, 1988.

> THE OWINGS MILLS TIMES THE JEFFERSONIAN,

PO 05845 neg 1120444 case 89-225-A price \$75.90

TOWSON, MD., November 18 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed

5. Zehe Orlin

The Zaning Commissioner of Bellimore County, by sutharity of the Zaning Act and Regulations of Bellimore County, by sutharity of the Zaning Act and Regulations of Bellimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, boosted at 111 W. Cheespeale Avenue in Toward, Maryland as follows:
Petition for Zaning Variance
Case Remainer: 69-255-A.
E'S Greenspring Avenue, 1800' S o'll Cid Court Road and Escition District-2nd Counciments. Legal Owner(s): Diversified Cradock Estesse Limited Parlmership Contract. Purchasser(s): The Ryland Group, Inc.

Group, Inc. Hearing Scheduled: WEDNESDAY, DECEMBER 14, 1988 at \$100 a.m.*

Variance to permit building separation of 25 ft. in fau of the required 30 ft. for building heights between 25 and 30 ft. for "Greenspring East-Section 2" (Lots #30.36.36.41.42.46.47.55.56.74.75.

80,81,86,87,92,93,99,100,105,107,11 2,113,121,122,127,128,132,133,138,1 39,145,146,152,153,159,160,167,168, 176,177,184)(Total=42 Lots); and to

176,177,184)(Total = 42 Lots); and to pennit butlong apparation of 22 ft. in the of the required 30 ft. for building heights between 25 and 30 ft. for "Greenspring East-Section 2" (Lots ±62,63,68,69)(Total = 4 Lots).

TF PHASE II OF SNOW EMER-OBENCY PLAN IS IN EFFECT ON THIS DATE, CA3E WILL BERSCHEDULED. CALL 404-3391 or BET-3391 TO CONFIRM DATE. In the event that this Publics is granted, a building permit may be issued within the Public (30) day appeal period. The Zening Conveniences will, however greates are required for a stay of the seuscince of seld permit during this person of seld permit during this person.

quest must be in writing and receive in this office by the date of the hearts

J. ROBERT HAINES

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

Paul H. Reincke

October 3, 1988

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

Re: Property Owner: Diversified - Greenspring Avenue Ltd. Partnershipennis F. Rasmussen
County Executive Contract Purchaser - The Ryland Group, Inc. Balto. Division Location: E/S Greenspring Avenue, 1800' S of c/1 of Old Court Road

Item No.: 120

Zoning Agenda: Meeting of 10/4/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at
- EXCEEDS the maximum allowed by the Fire Department. () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

Special Inspection Division

Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 J. Robert Haines

Baltimore County

*IF PHASE II OF SNOW EMERGENCY PLAN IS IN EFFECT ON THIS DATE, CASE WILL BE RESCHEDULED. CALL 494-3391 or 887-3391 TO CONFIRM DATE.

Thomas J. Dolina, Esq. POWER AND MOSNER 21 W. Susquehanna Avenue Towson, Maryland 21204 Re: Petition for Zoning Variance

CASE NUMBER: 89-225-A E/S Greenspring Avenue, 1800' S c/l Old Court Road 3rd Election District - 2nd Councilmanic Legal Owner(s): Diversified Cradock Estates Limited Partnership Contract Purchaser(s): The Ryland Group, Inc. HEARING SCHEDULED: WEDNESDAY, DECEMBER 14, 1988 at 9:00 a.m.*

Please be advised that 90.90 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

RE: Item No. 120, Case No. 89-225-A

Petition for Zoning Variance

The Zoning Plans Advisory Committee has reviewed the plans

submitted with the above referenced petition. The following

comments are not intended to indicate the appropriateness of

the zoning action requested, but to assure that all parties are

made aware of plans or problems with regard to the development

plans that may have a bearing on this case. Director of

Planning may file a written report with the Zoning Commissioner

with recommendations as to the suitability of the requested

Enclosed are all comments submitted from the members of the

Committee at this time that offer or request information on your petition. If similar comments from the remaining members

are received, I will forward them to you. Otherwise, any

comment that is not informative will be placed in the hearing

file. This petition was accepted for filing on the date of the

enclosed filing certificate and a hearing scheduled

Very truly yours,

JAMES E. DYER

Chairman

Acres & Degerlate

Zoning Plans Advisory Committee

Thomas J. Dolina, Esquire

21 West Susquehanna Avenue

Towson, Maryland 21204

Power and Mosner

Dear Mr. Dolina:

zoning.

accordingly.

JED:đt

Enclosures

December 6, 1988

Petitioner: Diversified-Greenspring Ave.

Purchaser

Ltd. Partnership/Legal Owner

Ryland Group, Inc./Contract

Please make your check payable to Baltimore County, Maryland and bring

it along with the sign(s) and nost(s) to the defice, County Office) minutes before BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT post set(s), there each set not R-01-615-000

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21204

Bureau of

Bureau of

Department of Traffic Engineering

Project Planning

Building Department

Board of Education

Zoning Administration

State Roads Commission

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204

J. Robert Haines Zoning Commissioner

NOTICE OF HEARING



Dennis F. Rasmussen

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: Petition for Zoning Variance

CASE NUMBER: 89-225-A E/S Greenspring Avenue, 1800 5 c/l Old Court Road 3rd Election District - 2nd Councilmanic Legal Dwner(s): Diversified Cradock Estates Limited Partnership Contract Purchaser(s): The Ryland Group, Inc. HEARING SCHEDULED: WEDNESDAY, DECEMBER 14, 1988 at 9:00 a.m.*

Variance to permit building separation of 25 ft. in lieu of the required 30 ft. for building heights between 25 and 30 ft. for "Greenspring East-Section 2" (Lots #30,35,36,41,42,46,47, 55,56,74,75,80,81,86,87, 92,93,99,100,106,107,112,113,121,122,127,128,132,133,138,139,145, 146, 152,153,159,160,167,168,176,177,184)(Total =42 Lots); and to permit building separation of 22 ft. in lieu of the required 30 ft. for building heights between 25 and 30 ft. for "Greenspring East-Section 2 (Lots #62,63,68,69) (Total * 4 Lots).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Polont Houses J. ROBERT HAINES Zoning Commissioner of Baltimore County cc: Mr. Ellwood Sinsky Mr. Michael M. Brodskyt Thomas J. Dolina, Eq.

IF PHASE II OF THE SNOW EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE ABOVE HEARING. SUCH HEAR-ING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, JANUARY 12. 1989. PLEASE TELEPHONE DOCKET CLERK AT 494-3391

or 887-3391 TO CONFIRM DATE.

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204

October 28, 1988



Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 107, 112, 115, 116, 117, 118, 119, (120) 122, 123, 125, 126,

Very truly yours,

michael Malanie -Michael S. Flanigan Engineering Recognists

89-225-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this day of <u>October</u> , 1988 .

Diversified-Greenspring Ave. ZONING COMMISSIONER
Ltd. Partnership/L.O. Received by: Transl Petitioner Pyland Group, Inc./C.P.

Attorney Thomas J. Dolina

Received by: <u>James P. Dyer</u> Chairman, Zoning Plans Advisory Committee

BAZTIMORE COUNTY, MAR-LAND

| INTER-OFFICE | CORRESPONDENCE |
|--------------|----------------|
| | |

J. Robert Haines Date December 6, 1988 TO Zoning Commissioner

Pat Keller, Deputy Director FROM Office of Planning and Zoning

Diversified-Greenspring Ave. SUBJECT Zoning Petition No. 89-225

The distance separation between dwelling units is a critical visual factor in providing quality, aesthetically pleasing housing. The separation distance of 30 feet should be provided, however, in no instance should the distance be less than 20 feet. The CRG for this project was approved on

89-225-A

PETITIONER(S) SIGN-IN SHEET PLEASE PRINT CLEARLY

| NAME | ADDRESS |
|---------------------------------------|---------------------------------------|
| RUBERT A MIFARLAND ESY | ARI W. SUSDICHANNA, AUR THUSSEL 7120. |
| Elluson A. Slusky | 244 JUST UACIET WES 21117 |
| Mark Arisman ludur Ryla. | M 1300 VOEK PA 21093 |
| Sam Shockley 1 | DEC-6603 Torker 21212 |
| | |
| · · · · · · · · · · · · · · · · · · · | |

/jl

cc: W. Duvall & Associates, Inc.







